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JOHN D. POUTASSE  
MATTHEW H. BRENNER  
CHRISTOPHER J. SOVA

April 30, 1998

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**VIA HAND DELIVERY**

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**APR 30 1998**

**Federal Communications Commission  
Office of Secretary**


Ms. Magalie R. Salas  
Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, NW  
Washington, DC 20554

Dear Ms. Salas:

On behalf of Chowder Broadcast Group L.L.C., licensee of Station WXXW(FM), Webster, Massachusetts, there is transmitted herewith and original and four copies of its Petition for Rule Making, seeking the reallocation of Channel 255A from Webster, Massachusetts to Spencer, Massachusetts, and modification of the license of Station WXXW accordingly.

If any additional information is desired in connection with this matter, please contact the undersigned counsel.

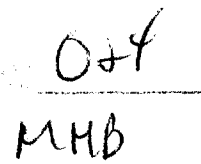
Very truly yours,

  
Brian M. Madden

BMM/tlm

Enclosure

bc: John Karousos (FCC, Room 554, 2000 M Street)  
Eric Seltzer  
Barry Sims  
Roy P. Stype, III



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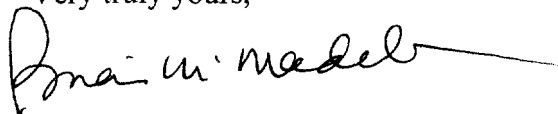
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Brian M. Madden

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BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D.C. 20554

Federal Communications Commission  
Office of Secretary

In the Matter of )  
 )  
Amendment of Section 73.202(b) ) RM \_\_\_\_\_  
Table of Allotments, FM Broadcast Stations )  
(Webster and Spencer, Massachusetts) )

To: Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

**PETITION FOR RULE MAKING**

Chowder Broadcast Group LLC ("Chowder"), licensee of FM broadcast Station WXXW(FM), Webster, Massachusetts, by its attorneys and pursuant to Section 1.401 of the Commission's rules, hereby requests that the Commission institute a rule making proceeding to amend Section 73.202(b), the FM Table of Allotments, by reallocoting Channel 255A to Spencer, Massachusetts as its first local transmission service, and modification of the license of Station WXXW accordingly.<sup>1/</sup>

As shown in the accompanying engineering statement prepared by Carl E. Smith Consulting Engineers ("Engineering Statement"), Channel 255A may be allotted as full 6.0 kilowatt Class A station to Spencer, Massachusetts consistent with all pertinent Commission

---

<sup>1/</sup> Chowder seeks modification of the license for Station WXXW pursuant to the provisions of Section 1.420(i) of the Commission's rules, which permit the modification of a station's license to specify a new community of license without affording other interested parties an opportunity to file competing applications. See *Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), recon. granted in part, 5 FCC Rcd 7094 (1990) (the "Modification Order").

requirements.<sup>2/</sup> Specifically, the proposal is in full accord with Commission separation requirements and would provide full principal community contour service over the proposed community of license. In addition, the proposal would eliminate short-spacing to two stations which exists at the licensed location as a Webster station.<sup>3/</sup>

Furthermore, the proposed allocation would result in a preferential arrangement of allotments in accordance with the Commission's policies regarding changes in community of license. *Modification Order* at 4873. First, the proposed allotment would give the community of Spencer its first local transmission service and therefore qualifies for an allotment priority.<sup>4/</sup> *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (Commission 1982). Second, the proposed allotment would not deprive the community of Webster of local service, because Webster would continue to receive local transmission service from Chowder's Station WGPF(AM), now operating and licensed to Webster. Third, the proposed allotment would not relocate service from a rural area to an urban area.<sup>5/</sup> Finally, the current allotment of Channel

---

<sup>2/</sup> It is requested that Channel 255A be reallocated to Spencer, Massachusetts at the reference coordinates of 42° 11' 00" North Latitude, 72° 02' 30" West Longitude.

<sup>3/</sup> Station WXXW is presently short-spaced to Station WPLR(FM), New Haven, Connecticut, operating on Channel 256B, and Station WPLM-FM Plymouth, Massachusetts, also operating on Channel 256B. Any site relocation for WXXW which will eliminate both of these short-spacings and not create a new short-spacing to any other station would result in the transmitter site being located too far from Webster to provide the required city grade coverage.

<sup>4/</sup> Spencer has a 1990 U.S. Census population of 11,645 persons. *Engineering Statement* at 3.

<sup>5/</sup> Webster is located within the Worcester Urbanized Area, as defined by the 1990 U.S.  
(continued...)

255A at Webster is constrained by existing short-spacings that prevent Station WXXW from operating non-directionally with maximum Class A facilities; operation of the station serving Spencer from the coordinates set forth herein will afford the opportunity for the station to achieve full Class A status, resulting in a more efficient utilization of the spectrum. These combined factors ensure that the proposed allotment will serve the public interest.

If the Commission grants Chowder's petition for modification of the allocation for Station WXXW and channel substitution at Spencer, Chowder will promptly file an application specifying the operation of Station WXXW as a Class A facility at Spencer, Massachusetts.

THEREFORE, for the reasons set forth above, a rule making proceeding should be instituted proposing the amendment of Section 73.202(b) of the Commission's rules to reallo-

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<sup>5/</sup>(...continued)

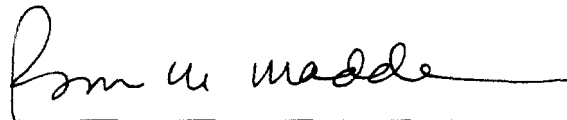
Census. Spencer is located wholly outside any urbanized area. The predicted 3.16 mV/m contour for the proposed operation in Spencer would not encompass 50% or more of any urbanized area. *Engineering Statement*, at 2-3.

Channel 255A from Webster, Massachusetts to Spencer, Massachusetts and to modify the license of Station WXXW accordingly.

Respectfully submitted,

**CHOWDER BROADCAST GROUP LLC**

By:

A handwritten signature in cursive script, appearing to read "Brian M. Madden", written over a horizontal line.

Brian M. Madden

Colin D. Horst (Admitted in CA Only)

Leventhal, Senter & Lerman, P.L.L.C.  
2000 K Street, N.W.  
Suite 600  
Washington, DC 20006-1809  
(202) 429-8970

April 30, 1998

Its Attorneys

ENGINEERING STATEMENT IN  
SUPPORT OF PETITION  
FOR RULEMAKING

CHANNEL 255A - SPENCER, MA

Chowder Broadcast Group, LLC  
Webster, MA

April 24, 1998

Prepared for: Mr. Barry Sims  
Chowder Broadcast Group, LLC  
1000 Worcester Road  
Framingham, MA 01702-5256

**CARL E. SMITH CONSULTING ENGINEERS**

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Table 1.1 - Proposed WXXW City Grade  
Coverage of Urbanized Areas

Fig. 1.2 - Present and Proposed  
1 mV/m Contours

Table 1.2 - Present and Proposed  
Area and Population

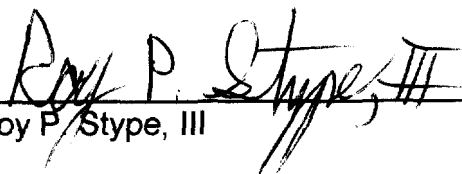


ENGINEERING AFFIDAVIT

State of Ohio                                 )  
  ) ss:  
County of Summit                         )

Roy P. Stype, III, being duly sworn, deposes and states that he is a graduate Electrical Engineer, a qualified and experienced Communications Consulting Engineer whose works are a matter of record with the Federal Communications Commission and that he is a member of the Firm of "Carl E. Smith Consulting Engineers" located at 2324 North Cleveland-Massillon Road in the Township of Bath, County of Summit, State of Ohio, and that the Firm has been retained by Chowder Broadcast Group LLC to prepare the attached "Engineering Statement In Support Of Petition For Rulemaking - Channel 255A - Spencer, MA."

The deponent states that the Exhibit was prepared by him or under his direction and is true of his own knowledge, except as to statements made on information and belief and as to such statements, he believes them to be true.

  
\_\_\_\_\_  
Roy P. Stype, III

Subscribed and sworn to before me on **April 24, 1998**.

  
\_\_\_\_\_  
Notary Public

/SEAL/

GAIL M. ELROD, Notary Public  
Residence - Summit County  
State Wide Jurisdiction, Ohio  
My Commission Expires May 26, 2002

TABLE 1.1

**PROPOSED WXXW CITY GRADE  
COVERAGE OF URBANIZED AREAS**

Chowder Broadcast Group, LLC  
Webster, MA

<u>Urbanized Area</u>	<u>Area</u>		<u>Population</u> <u>(1990 U. S. Census)</u>	
	<u>(square km)</u>	<u>(Percent)</u>	<u>(Persons)</u>	<u>(Percent)</u>
Worcester, MA-CT	32.6	8.6	14,382	4.6

Total area of Worcester, MA-CT, urbanized area = 378.1 square km.

Total population of Worcester, MA-CT, urbanized area = 315,111.

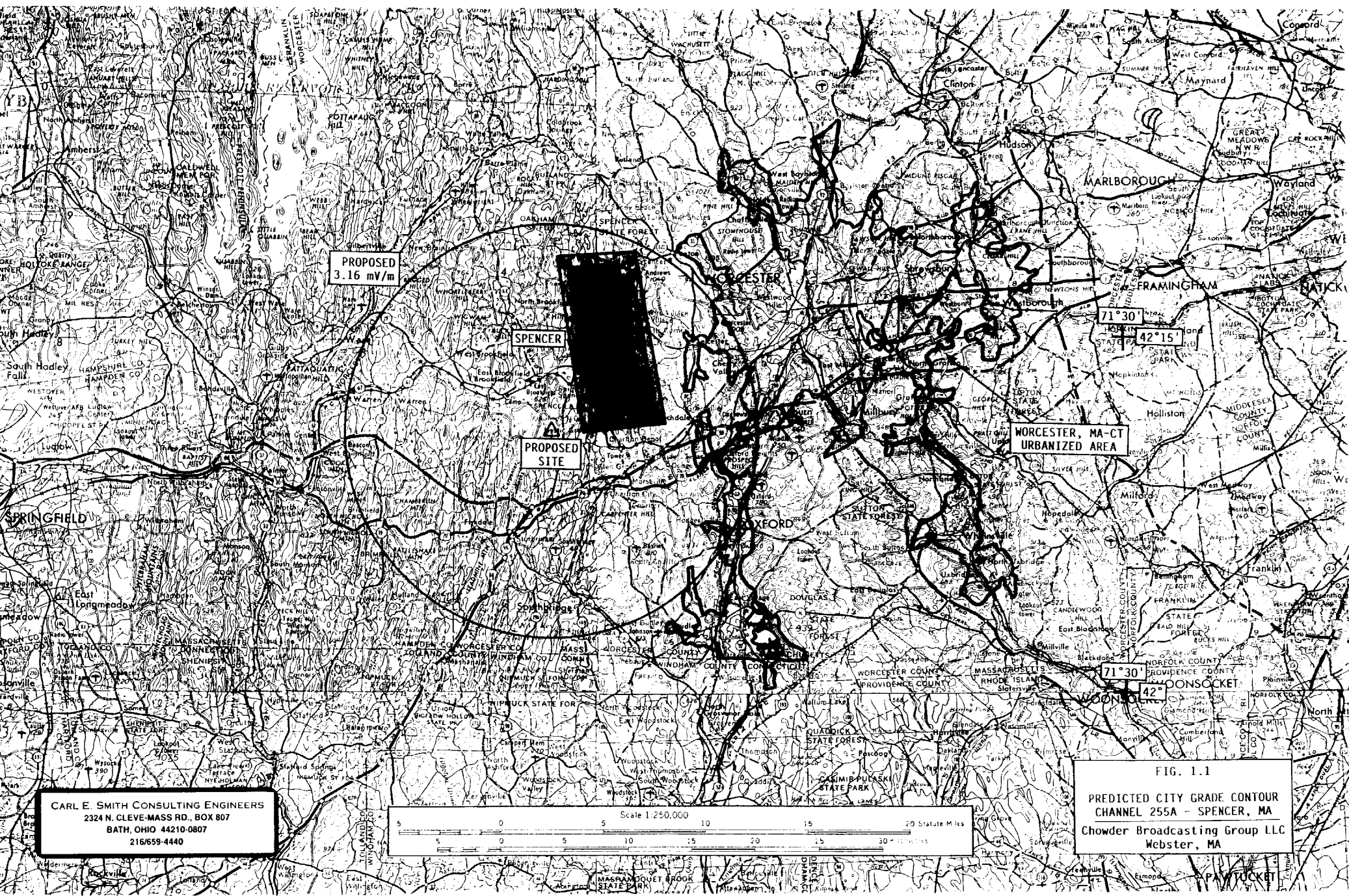
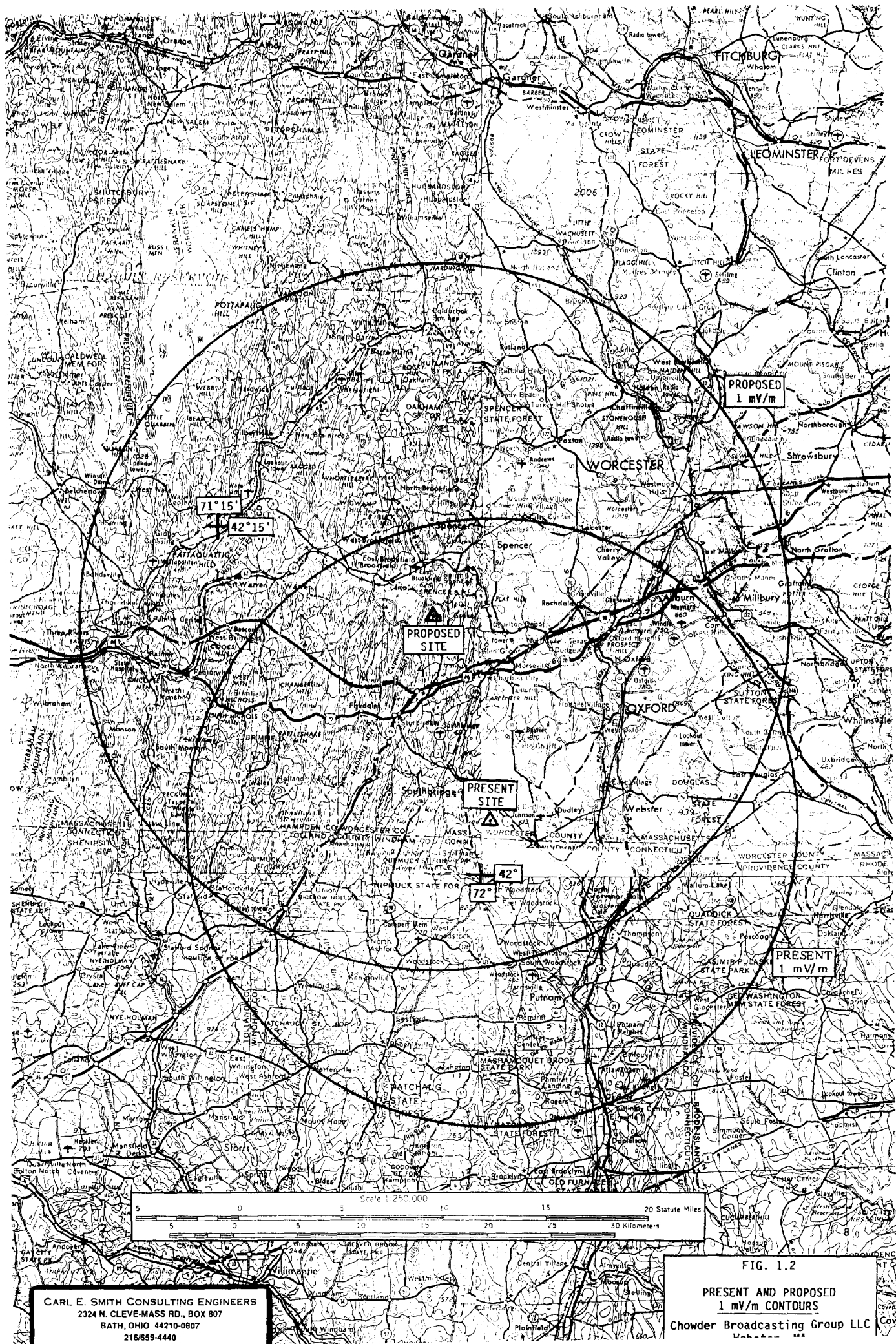


TABLE 1.2

**PRESENT AND PROPOSED  
AREA AND POPULATION**  
Chowder Broadcast Group, LLC  
Webster, MA

	Area ( <u>Square Kilometers</u> )	Population ( <u>1990 Census</u> )
Present	1,840	171,837
Gain	1,242	268,018
Loss	566	33,963
Proposed	2,516	405,892
Net Gain	676	234,055



CARL E. SMITH CONSULTING ENGINEERS  
2324 N. CLEVELAND RD., BOX 807  
BATH, OHIO 44210-0807  
216/659-4440

FIG. 1.2  
PRESENT AND PROPOSED  
1 mV/m CONTOURS  
Chowder Broadcasting Group LLC

## ENGINEERING STATEMENT

This engineering exhibit is prepared on behalf of Chowder Broadcast Group LLC, licensee of Radio Station WXXW(FM) - Webster, Massachusetts. It supports a petition to amend the FM Table of Allotments to reallocate Channel 255A from Webster, Massachusetts, to Spencer, Massachusetts, and modify the WXXW license to specify operation on Channel 255A in Spencer. WXXW is presently short spaced to two stations:

WPLR	New Haven, CT	Channel 256B
WPLM-FM	Plymouth, MA	Channel 256B

It is not possible to eliminate these short spacings while keeping the WXXW transmitter site close enough to Webster to provide the required city grade coverage. Thus, these short spacings preclude WXXW from operating nondirectionally with an effective radiated power of 6 kilowatts at 100 meters above average terrain, the maximum facilities permitted for a Class A station, while remaining licensed to Webster. The data contained in this exhibit shows that it is possible to reallocate Channel 255A from Webster to Spencer, permitting WXXW to operate with maximum Class A facilities and thus utilizing this allotment more efficiently.

The geographic coordinates for Spencer are:

NL - 42° 15' 00"  
WL - 72° 00' 00"

The studies contained in this exhibit were conducted from a site 8.2 kilometers south-southwest of Spencer. The geographic coordinates of this site are:

NL - 42° 11' 00"  
WL - 72° 02' 30"

Table 1.0 is an FM allocation study for Channel 255A from the site described above. An examination of this table shows that operation on Channel 255A from this site would be short spaced to the present operation of WXXW on Channel 255A in Webster. This short spacing will not pose any problems since this channel will be deleted if Channel 255A is allotted to Spencer, as proposed herein. Furthermore, under the provisions of Section 1.420(i) of the FCC Rules, this conflict with the existing operation of WXXW will permit the license of WXXW to be modified to specify operation on Channel 255A in Spencer, regardless of other expressions of interest which might be received. Pursuant to the rounding provisions of Section 73.208(c)(8) of the FCC Rules, the 68.87 kilometer spacing to the licensed facilities of WBMX - Boston, Massachusetts is considered to comply with the required spacing of 69 kilometers.

Figure 1.1 is a map exhibit showing the predicted 3.16 mV/m (city grade) contour for the site specified above for Channel 255A in Spencer. This contour was projected assuming maximum Class A facilities of 6 kilowatts effective radiated power at 100 meters above average, assuming uniform terrain. As shown in this figure, it will be possible to provide city grade service to all of Spencer on Channel 255A from a site which will meet all of the spacing requirements to other facilities requiring consideration.

Also shown in Figure 1.1 are the boundaries of the Worcester, MA-CT, urbanized area. As shown in this figure, the predicted 3.16 mV/m contour for the proposed facilities will cover a portion of this urbanized area. Table 1.1 is a tabulation of the area and population within this urbanized area which will receive 3.16 mV/m service from the proposed facilities. As shown in this table, the proposed facilities will provide 3.16 mV/m service to 8.6% of the area and 4.6% of the population of this urbanized area. Since this urbanized area coverage falls below the 50% threshold outlined in the

Report and Order in MM Docket 91-25 (Headland, Alabama and Chattahoochee, Florida), no showing regarding the independence of Spencer from this urbanized area is required.

It should be noted that Spencer (population 11,645<sup>1</sup>) presently has no local radio service and is not located within an urbanized area. Webster, on the other hand, is located within the Worcester, MA-CT, urbanized area. Thus, the proposal outlined herein would provide Spencer with its first local service, advancing the FCC's allotment priorities. Furthermore, the deletion of Channel 255A would not deprive Webster (population 16,196) of its only local service, as WGFP(AM) would remain licensed to Webster.

Figure 1.2 is a map exhibit showing the predicted 1 mV/m contour for Channel 255A in Spencer for operation with maximum Class A facilities from the coordinates outlined above. This figure also shows the predicted 1 mV/m contour for the present WXXW operating facilities.<sup>2</sup> Both of these contours were projected assuming uniform terrain. Table 1.2 presents detailed data on the present and proposed populations and areas, as well as the loss and gain areas. It should be noted that the entire area encompassed by these contours, including the loss and gain areas, is well served, receiving five or more fulltime aural services.

In summary, Channel 255A can be reallocated from Webster, Massachusetts to Spencer, Massachusetts, to permit WXXW to operate with the maximum facilities permitted for a Class A station. This reallocation would further the FCC's allotment priori-

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<sup>1</sup>All population data in this exhibit is extracted from the 1990 U. S. Census.

<sup>2</sup>Pursuant to FCC policy, it was assumed that WXXW presently operates with an effective radiated power of 3 kilowatts at 100 meters above average terrain, since the present operating facilities do not exceed equivalency with these values.



ties by permitting operation on this allotment with maximum Class A facilities, providing a first local service to Spencer, and reallocoting this channel from a community located within an urbanized area to one located totally outside any urbanized area.

TABLE 1.0

## FM ALLOCATION STUDY - CHANNEL 255A (98.9 MHz) - SPENCER, MA

CHOWDER BROADCAST GROUP LLC  
WEBSTER, MA

STUDY COORDINATES: 42/11/00 72/02/30

STATION	LOCATION	CHANNEL	CLASS	SPACING (km)	REQUIRED SPACING* (km)	NOTES
WCHC	Worcester, MA	201	A	20.16	10.0	
WELH	Providence, RI	201	A	69.98	10.0	
BPED970417MJ	Peterborough, NH	201	A	76.07	10.0	7
WMBR	Cambridge, MA	201	A	81.44	10.0	
WESU	Middletown, CT	201	A	86.60	10.0	
WBLQ	Westerly, RI	201	A	94.79	10.0	2
BPED980225MC	Bedford, MA	201	A	105.59	10.0	7
WGAO	Franklin, MA	202	A	54.29	10.0	
WIGH	Concord, MA	202	A	64.31	10.0	2
BPED961224MA	Nashua, NH	202	A	79.39	10.0	7
BPED971121MG	Milford, NH	202	A	80.90	10.0	7
WQRI	Bristol, RI	202	A	87.93	10.0	
WRPS	Rockland, MA	202	A	93.16	10.0	
WBMT	Boxford, MA	202	A	100.72	10.0	
WILIFM	Willimantic, CT	252	A	57.39	31.0	
WHAIFM	Greenfield, MA	252	A	65.74	31.0	
WBMX	Boston, MA	253	B	68.87	69.0	
WBMX	Boston, MA	253	B	69.20	69.0	2
WXOD	Winchester, NH	254	A	84.74	72.0	
WNLCFM	East Lyme, CT	254	A	88.73	72.0	1
WBYY	Somersworth, NH	254	A	150.10	72.0	1
WXXW	Webster, MA	255	A	16.91	115.0	3, 11
97-178	West Hurley, NY	255	A	171.48	115.0	9
97-178	Rosendale, NY	255	A	175.11	115.0	9
WCLZFM	Brunswick, ME	255	B	255.64	178.0	
WOKO	Burlington, VT	255	C1	268.80	200.0	
WNNH	Henniker, NH	256	A	109.78	72.0	1
WPLR	New Haven, CT	256	B	113.36	113.0	
WPLR	New Haven, CT	256	B	113.36	113.0	2
WPLR	New Haven, CT	256	B	113.36	113.0	7
WPLMFM	Plymouth, MA	256	B	113.51	113.0	
WHMPFM	Northampton, MA	257	A	56.27	31.0	2

\* Required Spacing Per Section 73.207 of The FCC Rules

TABLE 1.0 (cont'd)

FM ALLOCATION STUDY - CHANNEL 255A (98.9 MHz) - SPENCER, MA

-----  
 CHOWDER BROADCAST GROUP LLC  
 WEBSTER, MA

STUDY COORDINATES: 42/11/00 72/02/30

STATION	LOCATION	CHANNEL	CLASS	SPACING (km)	REQUIRED SPACING* (km)	NOTES
-----	-----	-----	-----	-----	-----	-----
WHMPFM	Northampton, MA	257	A	56.28	31.0	
WERIFM	Block Island, RI	257	A	118.69	31.0	
WKLBFM	Lowell, MA	258	B	85.57	69.0	
WKLBFM	Lowell, MA	258	B	85.65	69.0	2
WRVE	Schenectady, NY	258	B	168.57	69.0	

\* Required Spacing Per Section 73.207 of The FCC Rules

## Notes:

- |                                      |                                  |
|--------------------------------------|----------------------------------|
| 1 - Applied For Under Section 73.215 | 7 - Pending Application          |
| 2 - Construction Permit              | 8 - Petition For Reconsideration |
| 3 - Channel Deletion Proposed        | 9 - Proposed Rulemaking          |
| 4 - Move From This Channel Ordered   | 10 - Rulemaking Petition         |
| 5 - Move to This Channel Ordered     | 11 - Short-Spaced                |
| 6 - One Step Reference Site          | 12 - Vacant Allotment            |